Govt. Ex. 27—100,000—61-8-52.

Home (1952) Department.

Ms SERIES.

G.O. No. 4048

Dated 7-11-52

[Despatch Abstract.]

MAGISTRATES - Stipendiary - Separation of Judiciary from Executive - First Class - Appointment of persons posted as Sub Divisional Magistrates, additional First Class Magistrates and District Munsifs-cum-First Class Magistrates - Powers to be exercised specified - Notifications issued.

GOVERNMENT OF MADRAS.

ABSTRACT.

MAGISTRATES - Stipendiary - Separation of Judiciary from Executive - First Class - Appointment of persons posted as Sub Divisional Magistrates, Additional First Class Magistrates and District Munsifs---cum-First Class Magistrates - Powers to be exercised specified - Notifications issued.

HOME DEPARTMENT.

G.O.Ms.No.4048. Dated the 7th November, 1952.
Read the following.

From the District Magistrate (Judicial) Vellore, Dis.No. 5028/52-S, dated 12-7-52.

From the High Court, Roc.3666/52-B3 dated 16th July, 1952.

ORDER:

In his letter cited the District Magistrate (Judicial), Vellore has referred to the case of two persons who were previously acting as Additional First Class Magistrates and were reverted as Sub Magistrates and has enquired whether they could continue to exercise first class powers even after reversion as Sub Magistrates and if not whether the first class powers already conferred on them should not be withdrawn. The exercise by a Sub Magistrate of first class powers after his reversion from the post of Additional First Class Magistrate is anomalous and technically, unless the powers are withdrawn, there will be no bar for the exercise of the first class powers even after reversion, as the powers are invested by name and not in virtue of the office. An instance of this kind came to the notice of the Committee of Enquiry into the working of the Scheme of separation ofJudiciary from the Executive when it toured Chittoor District recently. With a view to avoid the ~~exercise~~ reversion of higher powers on reversion as Sub Magistrate, the Committee suggested that the investiture of first class powers on acting incumbents in the posts of Additional First Class Magistrates might be limited to the period of their acting appointments. In order to avoid the issue of notifications investing first class powers on every officer appointed as Assistant First Class Magistrate, District Munsif-Cum-First Class Magistrate or Sub Divisional Magistrate it has been suggested that a general notification may be issued appointing the persons posted as Sub Divisional Magistrates or Additional First Class Magistrates and District Munsif--cum-First Class Magistrates and specifying the powers they should exercise by virtue of holding those posts. The Government accept the suggestion. Sub.dts as

2. The notification appended to this order will be published in the Fort St. George Gazette:-

(BY ORDER OF THE GOVERNOR OF MADRAS)

V.HANUMANTA RAO,
JOINT SECRETARY TO GOVERNMENT.

To

The Registrar, High Court, Madras.
The District Magistrates (Judicial), Vellore, Tirunelveli, Gooty, Nellore, Ramanathapuram, South Arcot, Visakhapatnam, Coimbtore, Nandyal and Salem.

P.T.O

The Superintendent, Government Press for publication ofthe notification in the Fort St. George Gazette (para 2 and appendix only)
Copy to Collectors of Separation Districts.
" " Public Works (Information and Publicity) Department.

TRUE COPY)

APPENDIX.

NOTIFICATION.

In exercise of the powers conferred by sections 12(1) and 37 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), the Governor of Madras hereby -

(1)(a) appoints the persons posted as Sub Divisional Magistrates in the districts in which the Scheme of Separation of the Judiciary from the Executive has been introduced, by virtue of their offices, to be Magistrates of the first class in their respective districts; and

(b) invests them with all the powers specified in the Fourth Schedule to the said Code as powers with which a Magistrate of the first class may be invested by the State Government; and

(2) (a) appoints the persons posted as Additional First Class Magistrates and District Munsif-cum-First Class Magistrates in the district in which the Scheme of Separation of the Judiciary from the Executive has been introduced, by virtue of their offices , to be Magistrates of the first class in their respective districts; and

(b) invests them with all the powers specified in the Fourth Schedule to the said Code as powers with which a Magistrate of the first class may be invested by the State Government except -

(1) the power to require security for good behaviour under Section 108 or 110 of the Said Code;

(2) the power to try offences summarily under section 260 of the said Code; and

(3) the power to hear appeals from convictions by Magistrates of the second and third classes under Section 407 ofthe said Code.

(TRUE COPY)

R Nagarajan 2806

SUPERINTENDENT.
MADRAS RECORD OFFICE.

RN/20-7-